

9042/RHD  
CICHANOWICZ, CALLAN, KEANE, VENGROW & TEXTOR, LLP  
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Attorneys for Defendant SM China Co. Ltd.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MAN FERROSTAAL, INC.

Plaintiffs,

- against -

M/V DUBAI JEWEL, her engines, boilers, tackle,  
etc., JEWEL MARITIME LTD., OASIS SHIP  
MANAGEMENT LLC, OASIS MARITIME  
SERVICES LLC, SM CHINA CO., LTD.

Defendants.

07 Civ. 5835 (WHP) (KNF)

**ANSWER**

Defendant SM China Co. Ltd. ("SM China"), by its attorneys, Cichanowicz, Callan, Keane, Vengrow & Textor, LLP, answering the plaintiff's complaint, alleges upon information and belief as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1.
2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2.
3. Admits that SM China was a charterer of the vessel, but except as so specifically admitted, denies the allegations of paragraph 3.
4. Denies the allegations of paragraph 4.

5. Denies the allegations of paragraph 5.
6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6.
7. Denies the allegations of paragraph 7.
8. Denies the allegations of paragraph 8.

**AS AND FOR AFFIRMATIVE DEFENSES TO ALL CLAIMS, SM CHINA  
ALLEGES UPON INFORMATION AND BELIEF AS FOLLOWS**

9. Repeat and reallege each and every admission, denial and denial of knowledge or information hereinabove set forth, with the same force and effect as if herein repeated and set forth at length.

**FIRST AFFIRMATIVE DEFENSE**

10. The shipments were subject to all the terms, conditions and exceptions contained in certain bills of lading and/or charter parties issued therefor for which the shippers, owners, consignees or holders of said bills of lading and/or charter parties agreed to be bound and are bound.

**SECOND AFFIRMATIVE DEFENSE**

11. Any loss and/or damage to the above shipments was due to causes for which SM China is not liable or responsible by virtue of the provisions the applicable Carriage of Goods by Sea Act and/or Harter Act and/or general maritime law.

**THIRD AFFIRMATIVE DEFENSE**

12. Plaintiff failed to mitigate its damages.

**FOURTH AFFIRMATIVE DEFENSE**

13. Any damage to and/or loss of the shipments was caused by or due to the acts, omissions, fault or neglect of the owners of the shipment, the shippers or receivers

and their agents or the nature of the shipment, including inherent vice, or resulted from the acts, omissions, fault or neglect of other persons or entities for which SM China Co. is neither responsible nor liable.

**FIFTH AFFIRMATIVE DEFENSE**

14. Insufficiency of service of process.

**SIXTH AFFIRMATIVE DEFENSE**

15. This court lacks subject matter jurisdiction under the Foreign Sovereign Immunities Act, and SM China preserves all defenses under said Act.

WHEREFORE, SM China prays for:

- (a) An order dismissing plaintiff's complaint;
- (b) An award of all costs including attorneys' fees; and
- (c) Such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
November 7, 2007

Respectfully submitted,

CICHANOWICZ, CALLAN, KEANE,  
VENGROW & TEXTOR, LLP  
Attorneys for Defendant SM China Co. Ltd.

By: s/ Randolph H. Donatelli  
Randolph H. Donatelli (RHD-5359)  
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To: Kingsley, Kingsley & Calkins  
91 West Cherry Street  
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(516) 931-0064

Lyons & Flood

65 W. 36<sup>th</sup> Street, 7<sup>th</sup> Floor  
New York, New York 10018  
(212) 594-2400

**CERTIFICATE OF SERVICE BY ECF AND U.S. MAIL**

The undersigned declares under penalty of perjury that the following is true and correct:

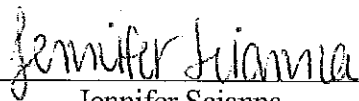
1. I am over the age of eighteen years and I am not a party to this action.

2. On November 7, 2007, I served a complete copy of Defendant SM China Co. Ltd.'s

Answer by ECF and U.S. Mail to the following attorney at their ECF registered address and by regular U.S. Mail at the following address:

To: Kingsley, Kingsley & Calkins  
91 West Cherry Street  
Hicksville, New York 11801  
(516) 931-0064

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65 W. 36<sup>th</sup> Street, 7<sup>th</sup> Floor  
New York, New York 10018  
(212) 594-2400

  
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Jennifer Scianna

DATED: New York, New York  
November 7, 2007